

Remarks/Arguments:

Claims 1-3, 8-13, 27-29 and 34-39 are pending and subject to appeal.

In the final Office Action dated August 4, 2009, claims 1 and 27 are rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

Claims 1-3, 8-13, 27-29 and 34-39 are also rejected under 35 U.S.C. 103(a) under various combinations of prior art on record. Applicants will address these rejections in the appeal.

Applicants respectfully request entry and consideration of this Amendment for reasons including compliance with MPEP § 1206, 37 CFR 1.116 (b)(1) and 41.33(a). MPEP § 1206 states:

“Amendments filed after the filing of a notice of appeal, but prior to the date of filing a brief, may be admitted only to:

(A) cancel claims;

(B) comply with any requirement of form expressly set forth in a previous action;

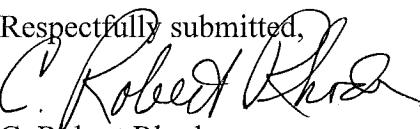
(C) present rejected claims in better form for consideration on appeal; or

(D) amend the specification or claims upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented. See 37 CFR 41.33(a).” (emphasis added) See MPEP § 1206 (I).

The Final Office Action states that the phrase “or the like” renders claims 1 and 27 indefinite under 35 U.S.C 112, 2nd paragraph. Claims 1 and 27, however, include the phrase “and the like” and not the phrase “or the like.” Applicants assume that the Examiner is referring to the phrase “and the like” in claims 1 and 27. Applicants have amended claims 1 and 27 to remove the phrase “and the like.” Accordingly, this Amendment complies with a requirement of form expressly set forth in the final Office Action of August 4, 2009. Applicants believed these amendments had previously been made.

CONCLUSION

As a result of the amendment set forth hereinabove, our Applicants urge that the Examiner enter this amendment and withdraw his rejection of Claims 1 and 27 under 35 U.S.C. 112, 2nd paragraph.

Respectfully submitted,


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